

Form No.J(1)

IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side

Present :

The Hon'ble Justice Rabindranath Samanta

C.R.A. 3 of 1990

Paban Singh & Ors Appellants

Versus

The State respondent

For the State : Mr. Narayan Prasad Agarwala
Ms. Subhasree Patel

Heard on : 27.01.2022.

Judgment on : 27th January, 2022.

Rabindranath Samanta, J:

None appears for the appellants who are appellant nos.3 and 4 of the appeal.

This Court vide order dated 24th December, 2021 has recorded that on the death of the appellant nos.1 and 2, namely Paban Singh and Surjya Singh respectively, the appeal as against them has abated. As none appeared for the appellants, this Court requested the Secretary, High Court Legal Services Committee to appoint a lawyer for the appellant nos.3 and 4, namely Hemlal Singh and Prafulla Singh

respectively so that they may be represented before this Court. But, no learned advocate has been appointed for the aforesaid appellants so far.

The State respondent is represented by Mr. Narayan Prasad Agarwala and Ms. Subhasree Patel. Their appointment is regularised.

Learned lawyer appearing for the State respondent submits that this Court may pass necessary order after going through the evidence on record.

The appellants preferred this appeal being aggrieved by the judgment and order of conviction and sentence passed by the learned Additional Sessions Judge, Midnapore, in Sessions Trial Case No.13 of November, 1988 whereby all the appellants including the aforesaid two appellants were convicted for commission of the offence punishable Indian Penal Code under Sections 364/34 and 506 of the Indian Penal Code and each of them was sentenced to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.1,000/-, each, in default, to suffer simple imprisonment for 6 months. However, all the appellants were acquitted of the charge under Section 302 of the Indian Penal Code.

The prosecution case, in a nutshell, may be stated as under:-

On 13.04.1986 one Jiten Singh, the elder brother of the appellants, Paban Singh and Prafulla Singh, the appellant nos.1 and 4 herein was murdered. It was suspected that the aforesaid appellants with the help of one Ananta Mahato @ Patlu abducted Jiten Singh and caused his death.

In order to bring home the charge, the prosecution examined 11 witnesses. After analysing the evidence on record, the learned Trial Judge convicted the appellants as above of the offence under Sections 364/34 and 506 of the Indian Penal Code.

I have minutely gone through the evidence as adduced before the learned Trial Judge during trial. On analysing and assessment of evidence on record, I do not find any reason to depart from the findings as recorded by the learned Trial Judge.

Therefore, I concur with the conviction as passed by the learned Trial Judge against the appellants.

Now, the question is what will be the quantum of sentence to be imposed upon the appellant nos.3 and 4.

I find from the case records that the appellant nos.3 and 4, Hemlal Singh and Prafulla Singh respectively, who are now alive were arrested and after being detained for some time, they were released on bail on 24.11.1984. Thereafter, the sentence being imposed upon them on 29.11.1989, they were further detained in custody for about 2 months and they were released on bail.

What I find from the case records, the aforesaid appellants were in custody for more than 3 months. The appellants continued the criminal proceedings since 1984 and they are continuing the instant appeal since 1990.

Since the continuance of the criminal proceedings and the instant appeal for more than 37 years, I feel that the appellants, who

now survive, have gone through the mental trauma, pains and agonies. The appellants as above were acquitted of the charge under Section 302 of the Indian Penal Code.

Considering the long pendency of the criminal proceedings as well as the appeal and the mental pains and sufferings which the appellants passed through, I feel that if the detention already served out by them is maintained reducing the sentence, I think that it will sub-serve the interest of justice.

In view of the above, the sentence as imposed by the learned Trial Judge is reduced to the period of detention already undergone by the appellant nos. 3 and 4.

Accordingly, the appeal is dismissed.

The conviction as recorded by the learned Trial Judge is confirmed and the sentence is reduced to the extent as indicated above.

The appellants who have already served out the sentence be set at liberty at once. They be discharged from the bail bonds.

Send down the L.C.R. along with the copy of the judgment to the learned Trial Court forthwith.

Urgent photostat certified copy of this judgment, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Rabindranath Samanta, J.)